

**DISTRICT OF COLUMBIA
DEPARTMENT OF INSURANCE AND SECURITIES REGULATION**

NOTICE OF FINAL RULEMAKING

The Commissioner of the Department of Insurance, Securities, and Banking, pursuant to the authority set forth in section 4 of the Department of Insurance and Securities Regulation Establishment Act of 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-103 (a)(1) (2001)) and section 21 of the Hospital and Medical Services Corporation Regulatory Act of 1996, effective April 9, 1997 (D.C. Law 11-245; D.C. Official Code § 31-3520 (2001)), hereby gives notice of the adoption of the following rules to be included in Title 26, Chapter 45 of the District of Columbia Municipal Regulations ("DCMR"). Notice of the Proposed Rulemaking was published January 23, 2004 (51 DCR 952). The final rules will be effective upon the publication of this notice in the D.C. Register.

26 DCMR is amended by adding a new Chapter 45, Oversight Role and Fiduciary Obligation of Members of the Board of Directors of a Hospital and Medical Services Corporation, to read as follows:

**CHAPTER 45 OVERSIGHT ROLE AND FIDUCIARY OBLIGATIONS OF
MEMBERS OF THE BOARD OF DIRECTORS OF A
HOSPITAL AND MEDICAL SERVICES CORPORATION**

4500	APPLICABILITY
4501	REQUIRED CODE OF CONDUCT FOR DIRECTORS, OFFICERS, AND EMPLOYEES OF THE CORPORATION
4502	MINIMUM REQUIREMENTS FOR CODE OF CONDUCT
4503	CODE OF CONDUCT COMPLIANCE PROGRAM
4504	FIDUCIARY OBLIGATIONS OF BOARD MEMBERS
4505-4598	RESERVED
4599	DEFINITIONS

4500 APPLICABILITY

4500.1 These rules shall apply to domestic corporations issued a certificate of authority pursuant to § 6 of the Hospital and Medical Services Corporation Regulatory Act of 1996, effective April 9, 1997 (D.C. Law 11-245; D.C. Official Code § 31-3505 (2001)).

4500.2 A corporation shall comply with the requirements of these rules within 30 days after they become effective.

**4501 REQUIRED CODE OF CONDUCT FOR DIRECTORS, OFFICERS,
AND EMPLOYEES OF THE CORPORATION**

4501.1 The board of directors of the corporation shall adopt a code of conduct that governs the conduct of the corporation's directors, officers, and employees.

4501.2 The code of conduct shall be submitted to the Commissioner for approval prior to its adoption by the board of directors. The Commissioner will advise the corporation, in writing, within twenty (20) days after receipt, whether the code of conduct is approved. If the Commissioner disapproves the code of conduct, he or she will specify, in writing, which elements of the code of conduct are inadequate. Any subsequent revisions to the code of conduct also shall be submitted to the Commissioner for approval.

4501.3 The corporation's bylaws shall be amended to require the corporation's board of directors to adopt policies consistent with the provisions of the code of conduct and any compliance program rules adopted by the Commissioner.

4501.4 The corporation shall file with the Commissioner annually, on or before June 1, a copy of its bylaws, which shall require the corporation's board of directors to adopt policies consistent with the provisions of the code of conduct and the rules of this chapter.

4502 MINIMUM REQUIREMENTS FOR CODE OF CONDUCT

4502.1 The code of conduct adopted by the corporation pursuant to this chapter shall include all fiduciary obligations applicable to directors as set forth in this chapter. In addition, the code of conduct as applicable to directors, officers, and employees shall include provisions that:

- (a) Specify prohibited outside activities;
- (b) Specify prohibited uses of corporation funds;
- (c) Require proper accounting and audit procedures;
- (d) Protect the corporation's handling of confidential medical and financial information;
- (e) Require ethical subcontracting;

- (f) Prohibit the giving or receiving of gifts or gratuities under specific guidelines;
- (g) Regulate the purposes and expense of business travel;
- (h) Regulate the business relationships between officers and employees and agents, sales representatives, providers and consultants;
- (i) Prohibit payments to government employees;
- (j) Require cooperation with the investigation of any violation of the code of conduct, whether undertaken by the corporation or the Commissioner;
- (k) Regulate the retention of records;
- (l) Prohibit unsafe or unhealthy work place activities;
- (m) Prohibit unlawful work place discrimination or harassment;
- (n) Prohibit the use or possession of unlawful drugs on corporate property;
- (o) Require the reporting of any knowledge of a suspected violation of the code of conduct to the compliance officer; and
- (p) Specify the penalties for violations of the code of conduct.

4502.2 The code of conduct may include other provisions consistent with the effective management of the corporation.

4503 CODE OF CONDUCT COMPLIANCE PROGRAM

4503.1 The corporation's board of directors shall appoint a code of conduct compliance officer who shall have the responsibility to investigate all reports of violations of the code of conduct.

4503.2 Suspected violations of the code of conduct shall be reported to the compliance officer who shall then promptly investigate the report and prepare a written report of his findings to the board of directors. The board of directors shall ensure that the compliance officer has the authority and funding to retain independent experts as deemed necessary by the compliance officer to assist him or her in any investigations authorized under this section.

4503.3 The board of directors of the corporation shall make a written report to the Commissioner of all cases where the board has determined that there has been a violation of the code of conduct. The report shall set forth the facts

4599 **DEFINITIONS**

4599.1 For the purposes of this chapter, the following terms shall have the meanings ascribed:

Commissioner – the Commissioner of the District of Columbia Department of Insurance, Securities and Banking.

Compliance officer – the person appointed pursuant to this chapter by the corporation's board of directors to investigate and report on reports of violations of the corporation's code of conduct for directors, officers, and employees.

Director – a member of the corporation's board of directors or board of trustees.

Domestic corporation – a corporation organized under the laws of the District, or formed or organized under an act of Congress.